



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 19, 1998

Ms. Deane Bostic-Martin
Records Systems Supervisor
Lubbock Police Department
P.O. Box 2000
Lubbock, Texas 79457

OR98-2760

Dear Ms. Bostic-Martin:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119878.

The City of Lubbock (the "city") received an open records request for "all police reports, statements, and all other related information regarding Clarence Mansell, case number 86-9686." You inform this office that the requested information pertains to a Lubbock Police Department investigation of the sexual assault of a child that resulted in a criminal conviction. You seek to withhold the requested information in its entirety pursuant to section 261.201 of the Family Code in conjunction with section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, *the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.* [Emphasis added.]

The records you have submitted to this office as responsive to the request clearly consist of "files, reports, records, communications, audiotapes, videotapes, and working papers used or developed" in an investigation conducted under chapter 261 of the Family Code. *See* Fam. Code § 261.201 (formerly Fam. Code § 34.08 (effective September 1, 1975)). You have not informed this office of any rules the city has adopted that would permit access to the requested records. Because the information at issue pertains to an investigation of sexual assault of a child, this office concludes that the city must withhold the requested records in their entirety pursuant to section 261.201 of the Family Code. *But see* Fam. Code § 261.201(b) (provision for court ordered access), (f) (limited right of access to records held by Department of Protective and Regulatory Services).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/nc

Ref.:ID# 119878

Enclosure: Submitted documents

cc: Mr. Glenn Archer
Attorney at Law
802 Main Street
Lubbock, Texas 79401
(w/o enclosures)